IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 375 OF 2007
IN
WRIT PETITION NO. 2051 OF 2007

Shailendra S. Rajeshirke & ora. .... Applicant

versus

State of Maharashtra & ors..... Respondent.

Shri Chetan Akerkar for the applicant.
Mea. Jai Vaidya for Respondent no.2.
Mr. D.p.Adsule APP for State.

CORAM; A.P. DESHPANDE, J.
DATED; 05TH DECEMBER, 2007

P.C.;

1. By this application, the applicant seeks amendment of Criminal Writ Petition No.2051/07. The application is not opposed by the respondents. The same is thus allowed. Amendment to be carried out forthwith.

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1. The petitioner no.1 and respondent no.2 are husband and wife respectively. The petitioner no.2 is the father of petitioner no.1, petitioner no.3 is the mother, petitioner no.4 is the sister, petitioner no.5 is also the sister of petitioner no.1 whereas petitioner no.6 is the brother-in-law. A case has been registered under section 498-A read with 34 of IPC against the present petitioners, which is pending in the 22nd Court of Metropolitan Magistrate at Andheri whereas another case is pending for the commission of offence under sections 324 and section 506(ii) of IPC against petitioner nos. 2 and 4. The petitioner had filed a divorce petition under section 13 of the Hindu Marriage Act against respondent no.2.

The present petitioner no.1 and the respondent no.2 viz. husband and wife resolved the dispute by entering into a settlement and placed on record of the Family Court, Bandra, Mumbai Consent Terms. Pursuant to the Consent Terms the Hindu Marriage Petition has been allowed and divorce has been granted to the parties by mutual consent. Para 9 of the Consent Terms filed on record of Family Court reads thus:

> "The petitioner shall file the proceedings in the Honourable High Court of Mumbai under section 482 of Criminal Procedure Code (Cr.P.C.) for quashing of the criminal cases against the petitioner and his family members, for FIR No.342 dated 19-6-06 u/s. 498 A, 34 of the IPC registered at Oshiwara Police Station and for FIR No.200 dated 09-8-06 u/s. 324, 506(2), 34 registered at Bhandup Police Station bearing case No.184/PW/07 pending at Mulund Metropolitan Magistrate Court. The respondent agrees and undertakes to co-operate with the Petitioner by signing all the required documents."

Persuant to the settlement this application is filed. It is thus clear that the parties have settled all the disputes under Consent Terms and in view of the said

settlement, the learned advocates appearing for the respective parties seek disposal of this petition in terms of amended prayer clause 9(a). In the submission of the learned counsel, disposal of the petition in terms of amended prayer clause (a) would be in furtherance of cause of justice. The learned advocates placed reliance on a judgment of the Supreme Court in **B.S.Joshi & others Vs. State of Haryana and another reported in (2003) 4 S.C.C. page 675** which goes to hold that section 320 does not limit or affect the powers of the High Court either under 482 of Cr.P.C. or the writ jurisdiction of the High Court. In my view, ends of justice would be met by disposing the writ petition as prayed for. Hence Rule made absolute in terms of amended prayer clause 9(a).

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